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SUBJECT: PANAMANIAN REACTION TO 212 (F) VISA REVOCATION OF
SUPREME COURT MAGISTRATE WINSTON SPADAFORA

REF: PANAMA 2351

Summary

1. (SBU) On the same day that Panama's National Assembly Justice Affairs Committee dismissed a complaint filed by the NGO Alliance for Justice against eight Supreme Court justices for highly questionable rulings, on November 29, Embassy Panama delivered formal notification to Winston Spadafora that his U.S. visa had been revoked under section 212 (f) of the Immigration and Nationality Act for corrupt acts. Spadafora's son presented the visa for revocation on November 30. The Embassy made no announcement until the Public Affairs and Political Sections received specific questions from journalists and other contacts on November 30. The first radio broadcast of the unconfirmed news occurred around mid-day on November 30. Later that afternoon, an Embassy spokesman presented the basic facts to several reporters regarding the section of law under which the visa was revoked. The next morning, December 1, all the major news stations and newspapers covered the story. While President Torrijos said he respected the USG's sovereign right to revoke a visa, civil society and opposition parties peppered the press with demands for Spadafora's resignation and specific evidence of his corruption acts. Meanwhile, Spadafora told the press that he is willing to face charges if they are made public, pointed out that he had not been formally accused of committing a crime, and stated his intention to stay at his post "until the last day." Revocation of Spadafora's visa underlines the Embassy's commitment to the fight against public corruption in the face of a reluctant administration. End Summary.

Spadafora's Reaction: Mea Ain't Culpa

2. (SBU) Winston Spadafora is the highest Panamanian official to lose his U.S. visa due to corruption since the revocation of former President Ernesto Perez Balladares's visa five years ago. In the face of heated public calls for his resignation, Spadafora has strenuously denied any wrongdoing, telling the press that he has "never been accused of corruption." Spadafora upheld the USG right to exercise immigration policy, but demanded that the USG bring proof of his corrupt acts before a court. (Note: Embassy has little expectation that the GOP will use diplomatic channels to request the information. End note.) He refused to resign his position as Supreme Court magistrate. Spadafora vowed to bring his case before the OAS and UN. Ironically, he is suing two journalists for libel over a March 2001 story which alleged corruption on his part in the construction of a road past his ranch in Chorrera with public funds.

"The U.S. did what our own government wouldn't"

3. (SBU) Civil society's reaction to the revocation is overwhelmingly positive. One day after news of the revocation leaked, Panama's two major newspapers, Panama America and La Prensa, ran front page stories about it, relegating articles about President Torrijos's trip to Havana to the inner pages. A La Prensa editorial supported the U.S. decision and derided the "existing pact among local politicians" which hinders the pursuit of corruption among public officials. Echoing public frustration about the government's disinclination to investigate and prosecute corruption cases, the same editorial also called "painful" the intervention by a foreign government into acts that "should have been investigated and punished in Panama." National Bar Association President Mercedes de Grimaldo expressed sentiments similar to the editorial.

Smiling and Biting their Tongues

4. (SBU) In general, leaders of civil society and government officials have made careful statements supporting the right of the USG to issue or revoke one of its visas. Solidarity Party legislator Marilyn Vallarino smiled broadly when stating her support for the sovereign right of the USG to revoke Spadafora's visa. Under Panama's criminal libel laws, individuals cannot make a public accusation or imply that they assume someone's guilt without evidence of its veracity.

For this reason, most individuals who have spoken publicly about the revocation have qualified their statements as not supporting an assumption of corruption.

15. (SBU) Anti-corruption Front spokesman Enrique Montenegro called the revocation "good news." Panamanian Association of Business Executives (APDEDE) President Enrique De Obarrio said the revocation indicated a "perception of corruption in the Court," while other officials mentioned the questionable circumstances and public controversy surrounding Spadafora's nomination to the Court. (Note: Spadafora's nomination is linked to charges of bribery and public corruption within the then-Moscoso administration and the National Assembly. End note.) Democratic Change Party President Ricardo Martinelli asked Torrijos to take "concrete actions and ask for the resignation of all nine justices," while Solidarity Party president Jose Raul Mulino asked Spadafora to resign. Democratic Revolutionary Party (PRD) legislator Elizabeth de Quiros was skeptical that proof of corruption existed but added that it was not the part of another country to take action on behalf of Panama. The Panamenista Party, the party responsible for Spadafora's nomination to the Court, has been notably silent. It is not the PRD, but the smaller opposition parties leading the vocal charge against Spadafora and Court corruption.

GOP Reaction: Damage Control

16. (SBU) On December 1, in an effort at damage control, Justice Affairs Committee Chairman Freidi Torres called the Embassy seeking a meeting with Ambassador Eaton to explain the committee's decision to dismiss the complaint against the justices. (See Reftel.) President Torrijos, who was elected on a "zero corruption" platform, attempted to remove the spotlight from a corrupt individual and signaled his lack of interest in seeking a prosecution or a resignation. La Prensa on December 2 noted Torrijos arguing that the problem of corruption in Panama "goes far beyond individuals," is pervasive and "requires the force of all to bring about a transformation." Although it is unlikely that the revocation of Spadafora's visa will spur the Torrijos administration into action, the public overwhelmingly supports active pursuit of public corruption.

Comment

17. (SBU) Torrijos's characterization of Panamanian society as being pervasively corrupt probably indicates that he will remain passive and indecisive as exemplified by his creation of the Justice Commission, after Court magistrates hurled mutual accusations of corruption at each other earlier this year. One significant positive development of the visa revocation has been the repeated requests for concrete evidence by civil society and opposition parties who cannot legally make statements that assume Spadafora's guilt. Unfortunately, as noted above, the GOP is not likely to request a look at the evidence through official channels. Though the U.S. cannot otherwise release the confidential information that justified the revocation, the action has brought to the forefront a wave of keenly interested parties who would use the revocation as a stepping stone for change. Previously, evidence in high-profile cases of corruption remained under the control of the Court and National Assembly to do with as they saw fit. The revocation has provided civil society with a near-smoking gun of Spadafora's corrupt acts, placing the issue of unaddressed Court corruption squarely in the public realm under the auspices of international pressure to hold accountable corrupt public officials.

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